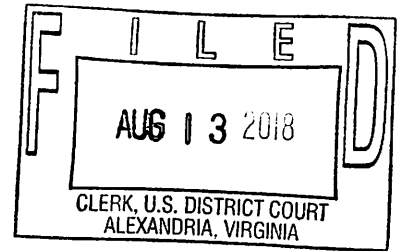


**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**



PATRICIA BURKE,

Plaintiff,

v.

JAMES MATTIS, Secretary, United States
Department of Defense,

Defendant.

Case No. 1:16-cv-1256
Hon. Liam O'Grady

ORDER

This matter comes before the Court on Plaintiff's Supplemental Petition for Attorneys' Fees (Dkt. 158). The motion is fully briefed and the parties have jointly waived oral argument. Plaintiff seeks an award of \$36,087.32 in attorneys' fees associated with litigating attorneys' fees and the parties agree that the touchstone of the instant motion is the reasonableness of the requested fees.

In opposition to the petition, Defendant contends a) that litigating attorneys' fees did not require the participation of all three of Plaintiff's attorneys and that time spent by multiple attorneys working on the same issue should be significantly discounted; b) that the time spent on just the reply brief was "dubious"; and c) that certain miscellaneous line items should be rejected, specifically Mr. Goldsmith's undiscounted \$810 for travel on April 6, 2018 and Mr. Goldsmith's requested \$225 for "Our Discovery Requests and Opponent's Responses / Leizer Goldsmith: Discussing next steps with co-counsel" on June 4, 2018, nearly a year after the close of discovery.

In reply, Plaintiff argues that the participation of all three of her attorneys in litigating

fees was necessary and not duplicative. As to the specific line items disputed by Defendant, Plaintiff concedes a 55% discount to the requested \$810 for travel on April 6, 2018 is appropriate, but disputes that Mr. Goldsmith's requested \$225 is improperly billed, contending that the line item is simply mislabeled and instead pertains to Mr. Goldsmith's review of the Court's Memorandum Opinion of June 4, 2018.

The Court finds the \$225 cannot be awarded. While Plaintiff offers conjectures as to the intended billing description, it is merely conjecture and cannot carry Plaintiff's burden to demonstrate entitlement to fees. This brings the requested fee figure to \$35,862.32.


The Court has reviewed the petition and finds scant evidence within it to support Defendant's contention that the fees sought are for duplicative work by multiple attorneys. Further, contrary to Defendant's arguments to the contrary, the Court finds that litigating attorneys' fees frequently necessitates the participation of all counsel on the part of the party seeking the fee award, as each attorney must be involved in establishing their entitled rate and supporting the specific line items requested in the petition. Additionally, Plaintiff has voluntarily reduced her request by 20% to render it more reasonable.

Nevertheless, the Court finds that the amount requested, even after the voluntary 20% reduction, reflects a number of hours unreasonable for the scope of the work necessary for such a discrete issue and will apply an additional 10% reduction.

Accordingly, for good cause shown, the motion is **GRANTED** and the Court awards Plaintiff an additional \$32,276.09 in attorneys' fees.

It is so **ORDERED**.

August 13, 2018
Alexandria, Virginia



Liam O'Grady
United States District Judge